



STATE OF INDIANA
OFFICE OF THE GOVERNOR
State House, Second Floor
Indianapolis, Indiana 46204

Michael R. Pence
Governor

June 10, 2013

The Honorable Members of the Indiana General Assembly
State House, Third Floor
Indianapolis, Indiana 46204

Re: House Enrolled Act 1546-2013

Dear Members of the Indiana General Assembly,

If Hoosiers owe taxes, they should pay them. But when Hoosiers pay taxes that are not owed, they deserve relief. House Enrolled Act 1546-2013 did not meet that standard. It would approve, after the fact, the collection of taxes that were not owed. While there are valuable elements of this legislation, retroactive approval of taxes collected is not the best remedy, and for that reason I vetoed this legislation.

Since mid-2011, all taxpayers in Jackson County have paid a special local income tax rate of 0.1% that was no longer authorized by law. Likewise, since mid-2006, all taxpayers in Pulaski County have paid a similar unauthorized rate of 0.3%. This means 30,400 taxpayers in Jackson County collectively paid \$1.1 million and 12,400 taxpayers in Pulaski County collectively paid \$4.9 million above and beyond what they owed in taxes. The tax revenue paid for jail operating costs, not debt, in both counties.

House Enrolled Act 1546-2013 “legalized and validated” these overpayments. While HEA 1546-2013 contained many provisions that I support, I could not support the public policy of retroactive approval of local income taxes. For that reason, I vetoed the bill. I believe taxpayers should have full and fair notice of any proposed tax and have an opportunity to make their voices heard during the legislative process at both the state and local levels.

At the same time I remain committed to finding a solution to a problem that neither the state nor the counties intended. Four basic steps will set things right: (1) stop distributing money from the illegal tax to the two counties; (2) stop collecting the illegal tax; (3) refund taxpayers who overpaid; and (4) gradually repay over-distributions from the two counties.

Starting last week, the Budget Agency stopped authorizing distribution of the illegal tax to Jackson and Pulaski counties. This reduced Jackson County’s local option income tax by \$29,484 for the month and reduced Pulaski County’s local option income tax distribution by \$69,166 for the month.

Beginning soon, the Department of Revenue will work with employers in Jackson County and Pulaski County to make appropriate reductions to payroll withholdings.

Employee paychecks will no longer be reduced to fund the unauthorized tax. The Department of Revenue has also identified the taxpayers due refunds and is prepared to issue refunds directly to them. For those taxpayers who cannot be located, their refunds will be transferred to the Indiana Attorney General's Unclaimed Property Division.

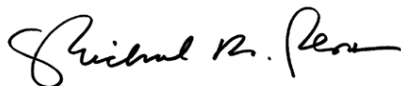
As for county repayment of over-distributions, the State Budget Agency will, beginning in January 2014, make additional adjustments to Jackson County's and Pulaski County's local income tax distributions. It is possible to hold those distributions constant for a few years as the two counties forgo annual increases. The forgone increases, in turn, will be credited as repayments of the over-distributions the two counties received in the past. Under this scenario, Jackson County will repay the state \$1.1 million by 2018 and Pulaski County will repay the state \$4.9 million by 2024.

Both Jackson and Pulaski County report healthy cash balances in their accounts. At the end of 2012, Jackson County had a total cash balance of \$5.21M in its general fund and rainy day fund, while Pulaski County reported \$4.67M in the same funds with additional \$2.01M in cash in its jail operating fund. These healthy balances will help the counties weather any short-term adjustments to the jail operating income tax until the next session of the Indiana General Assembly, and also weather any impact during the repayment period. Furthermore, allowing the counties to pay back the state by reducing their overall income tax distribution will allow the counties to determine how to allocate the impact of the repayment across their different funds. In addition, because the tax rates at issue were limited to jail operating expenses, no debt or municipal bonds were involved or will be affected.

Finally, this proposed solution will avoid the uncertainty of state or local government liability for collection of an illegal tax. Prompt cessation of the unauthorized tax and timely refunds to taxpayers will prevent needless risk of lawsuits and a judicially imposed solution. This is our chance to make it right and do so in the most efficient and expeditious way possible.

Our country was founded on the precept of taxation *with* representation and government by consent of the governed. We should take the course that will maintain public confidence in the integrity of our system of taxation, a system that should ensure the people know and help determine how much of their hard-earned pay is taxed for the benefit of their communities. I respectfully request that you join me in putting these principles and the taxpayers of Jackson and Pulaski counties first and sustain the veto of House Enrolled Act 1546-2013.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael R. Pence", written in a cursive style.

Michael R. Pence
Governor of Indiana